

Remarks

Upon entry of this amendment, claims 1-6, 8-10 and 14-21 will be pending in the application. Claims 11-13 are being cancelled. Claim 1 is amended in accordance with the Examiner's directions, support being found for example in the claims as originally filed and in the Examples. Consequentially, claim 12 is cancelled and claim 8 and 9 are amended to cancel embodiments having a differently configured pyrido[3,2-b]thiazine ring, in particular a differently configured pyrido ring (a) (i.e., where X^2 is CR^4 and Y^1 is, for example, $C(R^4)N$ with N bonded to X^4).

The specification is being amended to correct information regarding the activity assay appearing on page 22. Support for this amendment is found in the specification as originally filed, including page 22, lines 20-21 and 31-33.

No new matter is added. Applicants reserve the right to pursue the cancelled subject matter and any other subject matter supported by the specification in a continuing application.

Specification:

A review of data revealed that the listed Examples in the application were tested in the assay described on page 22, except that the testing dose range was 0.016 to 16 mcg/mL, and the specific named strain of *Haemophilus influenzae*, NEMC1, was not part of the testing panel which included 31 other strains of *Haemophilus influenzae*. To advance prosecution, Applicants have cancelled claims 11 and 13. Applicants reserve the right to pursue the subject matter of these claims in an RCE or continuing application.

Office Action:

On page 2 of the Office Action, the Examiner states that the application is in condition for allowance except for the following formal matters: Applicants did not delete non-elected invention from the claims. The Examiner states that Applicants elected the prosecution of Group III (R^2 is pyrido[3,2-b]thiazine ring), and recommends that after so limiting the definition of R^2 , Applicants should delete claim 12 since it would not narrow the claim limitation of claim 1.

Applicants had not appreciated that the Examiner's restriction requirement defined Group III to include only the pyrido[3,2-b]thiazine ring having the specific ring atom configuration as is now claimed in claim 1. Indeed, Applicants believe that the claims previously presented would not have presented an undue burden on the

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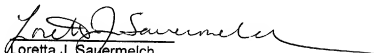
Office. Nonetheless, the claims being now amended as required by the Examiner, Applicants reserve the right to pursue the canceled, nonelected subject matter in a divisional application.

More specifically, Claims 8 and 9 have been amended to delete embodiments of R² being a pyrido[3,2-b]thiazine ring other than as recited in previously presented claim 12. In order to be clear about the claimed configuration, Applicants have incorporated the limitations of claim 12 into claim 1 rather than incorporating the term "pyrido[3,2-b]thiazine" (which term can encompass other configurations such as presently deleted from claims 8 and 9).

Conclusion:

Each of the issues raised by the Examiner has been addressed. The application is believed to be in condition for allowance, and a Notice of Allowance in the next Office Action is earnestly solicited.

Respectfully submitted,


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